IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5792 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO No

5. Whether it is to be circulated to the Civil Judge? No :

G.S.R.T. CORPORATION

Versus

PRADYUMAN VIRJI VALA

Appearance:

MR HARDIK C RAWAL for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 25/02/2000

ORAL JUDGEMENT

By filing this petition under Article 227 of the Constitution, Gujarat State Road Transport Corporation has challenged award dated December 6, 1986 rendered by the Presiding Officer, Labour Court, Rajkot in REF (LCRP)

No. 1169/83 directing the petitioner to pay 80% of backwages to the respondent for the period from May 21, 1983 to June 28, 1983.

2. The respondent was working as a watchman with Gujarat State Road Transport Corporation. He had joined service in 1981. He was dischaged from service on May 21, 1983 without payment of notice pay and retrenchment compensation, though according to him he had worked for more than 240 days in the year preceding the date of discharge. His another grievance was that the employees junior to him were retained in service. Under the circumstances, a dispute was raised by him regarding his reinstatement in service before Assistant Commissioner of Labour, Jamnagar. The dispute was referred to the Presiding Officer, Labour Court, Rajkot for adjudication, which was registered as Ref.(LCRP) No. 1169/83. The respondent had filed statement of claim at Exh.4; whereas the petitioner had filed written statement at Exh.5. In the reply it was, inter-alia, contended that the respondent was appointed purely on temporary basis as a reliever watchman and, therefore, was not entitled to the relief of reinstatement in service. The respondent had examined himself at Exh.10; whereas one Anopsinh Jadeja was examined on behalf of the Corporation at Exh.12. On appreciation of evidence led by the parties, the learned Presiding Officer of Labour Court,Rajkot held that the respondent had worked for more than 240 days in the preceding year and as he was discharged from service without following the provisions of section 25(f) of the Industrial Disputes Act, 1947, he was entitled to be reinstated in service with backwages. The Labour Court found that the respondent was reinstated in service with effect from July 29, 1983 and, therefore, the petitioner is ordered to pay to the respondent 80% of the backwages for the period from May 21, 1983 to June 28, 1983, giving rise to the present petition.

3. I have heard the learned Counsel for the petitioner and taken into consideration the relevant documents which are produced on record of the case. The learned Counsel for the petitioner is not able to dislodge the finding recorded by the Labour Court to the effect that the respondent had worked for more than 240 days in the preceding year.In fact, the finding recorded by the Labour Court is that the respondent had worked for 308 days during the period from June 1980 to May, 1983 and this finding is not shown to be erroneous at all. It was an admitted position that the petitioner had not paid notice pay nor retrenchment compensation and, therefore, the Labour Court was justified in holding that the

discharge of the respondent from service was illegal. As the respondent was reinstated in service with effect from July 29, 1983, Labour Court has not given any direction to the petitioner to reinstate the respondent in service, but during the preceding year, the workman was found to have worked on an average for 25 days in a month and, therefore, Labour Court has directed the petitioner to pay to the respondent 80% of backwages for the period from May 21, 1983 to June 28, 1983. Under the circumstances, said direction cannot be said to be illegal so as to warrant interference of this Court in the present petition which is filed under Article 227 of the Constitution. No ground having been made out by the petitioner to interfere with the direction given by the Labour Court, the petition is liable to be dismissed.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged, with no order as to costs.

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(patel)